

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MELINDA SERIN, JUDSON RUSS, LONG SOU
LIM, PERI KETTLER, GORDON REDNER, AND
THOMAS J. SMITH,

Plaintiffs,

- against -

NORTHERN LEASING SYSTEMS, INC., JAY
COHEN, RICH HAHN, and SARA KRIEGER,

Defendants.
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: 06 CV 1625 (SCR)
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NOTICE OF MOTION

PLEASE TAKE NOTICE that on the annexed affidavit of Sara Krieger, sworn to July 14, 2006, defendants will move this Court pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure on August 21, 2006 before District Judge Stephen C. Robinson at the United States Courthouse, 300 Quarropas Street, White Plains, New York, at 9:30 A.M., or as soon thereafter as counsel may be heard, for an order dismissing the complaint with prejudice on the ground that it fails to state a claim upon which relief can be granted.

New York, New York
July 17, 2006

EPSTEIN BECKER & GREEN, P.C.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LIM, PERI KETTLER, GORDON REDNER, AND	:	
THOMAS J. SMITH,	:	06 CV 1625 (SCR)
	:	
Plaintiffs,	:	
	:	
- against -	:	AFFIDAVIT OF SARA
	:	KRIEGER
	:	
NORTHERN LEASING SYSTEMS, INC., JAY	:	
COHEN, RICH HAHN, and SARA KRIEGER,	:	
	:	
Defendants.	:	
-----	X	

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

SARA KRIEGER, being duly sworn, deposes and says:

1. I am a defendant and Vice President of Operations of Northern Leasing Systems, Inc. ("NLS"), a co-defendant herein. I make this affidavit in support of Defendants' Motion to Dismiss the complaint, a copy of which is annexed as Exhibit 1.

2. My responsibilities at NLS include supervision and control over NLS's Originations Department and certain of NLS's employees within and without those departments, and I am familiar with the record keeping procedures of NLS. I am familiar with the job descriptions of NLS's employees and the methods they use in maintaining business records. I am one of the custodians of NLSI's records herein and in making this affidavit have reviewed those records and declare that the records reflect the facts as set forth below.

3. The records of NLS are made in the ordinary course of NLS's business, and are made at or near the time or occurrence of the events of which they are of record and are made by persons who have a business duty to NLS to make such records. All entries made in NLS's records are similarly made at or near the time or occurrence of the event of which they are of record. Additionally, I have personal knowledge of certain of the facts set forth herein and if called upon to testify to the matters stated herein, I could and would competently testify thereto.

4. A group purporting to represent a class of plaintiffs filed a First Amended Complaint in the matter of Kevin Pludeman et al. v. Northern Leasing Systems, Inc. et al. on or around April 28, 2004, in the Supreme Court of the State of New York, Index No. 04/101059 (the "State Action"). A true and accurate copy of that First Amended Complaint is attached as Exhibit 2. The original complaint in the State Action alleged a cause of action arising under New York General Business Law Section 349. This cause of action was dropped from the First Amended Complaint.

5. In the State Action, the defendants filed a motion to dismiss. The plaintiffs in the State Action filed a brief in opposition to defendants' motion to dismiss. A copy of the relevant pages of the plaintiffs' Memorandum of Law in Opposition to Defendants' Motion to Dismiss dated September 27, 2004 in that action is attached as Exhibit 3.

6. On or about April 7, 2005, the Supreme Court of New York issued a written decision and order in the State Action. A copy of that decision is attached as Exhibit 4. Plaintiffs and defendants in that case have since filed notices of appeal. The appeal has not been perfected yet.

7. Plaintiff Melinda Serin is or was the principal of Jim Cameron's Garage Doors, a California business located in West Hills. Ms. Serin signed an Equipment Finance

Lease with NLS on August 15, 2001. NLS began electronic debits from the lessee's business account on September 7, 2001 and stopped such debits on April 4, 2002.

8. Plaintiff Judson Russ signed four Equipment Finance Leases with NLS on March 26, 2001 on behalf of Rapid Cash Advances, a Florida corporation located in Orlando, according to our records. NLS began electronic debits from all four of the corporate business accounts starting on April 2, 2001 and stopped such debits on or before February 1, 2003.

9. Plaintiff Perry Kettler, as a principal of Yodamo, Inc., a business in Port Townsend, Washington, signed an Equipment Finance Lease with NLS in early January 2002, according to our records. NLS began electronic debits from her business's account on January 15, 2002 and stopped such debits on August 1, 2003.

/s/Sara Krieger

SARA KRIEGER

Sworn to before me this
14th day of July, 2006

/s/ Joseph Sussman

Notary Public